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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 23381,)
23382, and 23384 of Santa Clara)
Valley Water District to Appropriate) Decision 1449
from Coyote Creek, Calero and Alamitos)
Creeks, and Los Gatos Creek, respec-)
tively, in Santa Clara County.)

DECISION DENYING APPLICATIONS

BY BOARD MEMBER AUER:

Santa Clara Valley Water District having filed Applications 23381, 23382 and 23384 on October 30, 1969, for permits to appropriate unappropriated water; communications from the applicant to the Board having indicated that the applications may have been filed prematurely in that the applicant may not be in compliance with the Board's rule providing that an application will be denied when it appears that the applicant is not able to proceed with a project within a reasonable time (Section 776, Title 23, California Administrative Code); a public hearing having been held before the State Water Resources Control Board on June 21, 1974, for the limited purpose of allowing the applicant an opportunity to show that it has the intent and financial resources to proceed with the construction of its project within a reasonable time; applicant having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Applications

1. (a) Application 23381 is for a permit to appropriate 50,000 acre feet per annum (afa) by storage to be collected from October 1 of each year to July 1 of the succeeding year for irrigation, domestic, industrial, and recreational purposes from Coyote Creek in Santa Clara County. The point of diversion is to be located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T10S, R4E, MDB&M.

(b) Application 23382 is for a permit to appropriate 21,000 afa by storage to be collected from December 1 of each year to April 30 of the succeeding year for irrigation, domestic, industrial, and recreational purposes from Calero and Alamitos Creeks in Santa Clara County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 6, T9S, R2E, MDB&M.

(c) Application 23384 is for a permit to appropriate 30,000 afa by storage to be collected from November 1 of each year to May 15 of the succeeding year for irrigation, domestic, industrial, and recreational purposes from Los Gatos Creek in Santa Clara County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 29, T8S, R1W, MDB&M.

Status of Applicant's Coyote Creek Project (Application 23381)

2. The project proposed by Application 23381 is to collect flood waters in the Coyote Creek watershed for recharging the Santa Clara Valley Groundwater Basin. The applicant initiated a reconnaissance investigation in 1970 of various alternative storage facilities in the Coyote Creek Basin and found difficulties with all sites (RT 4). The only apparently feasible site is the

Los Osos site near the confluence of Los Osos and Coyote Creeks (RT 9). The U.S. Corps of Engineers (Corps) is making a feasibility study of a multipurpose project at that site. The applicant is awaiting the results of that study before making any further studies of its own (RT 4). The Corps first found this project unfeasible but its present study takes in social and environmental factors not considered in the prior study. The initial phase of the present study was to be completed by August 1974 (RT 9). At the hearing the applicant agreed to submit to the Board evidence of the Corps' schedule for the completion of its studies (RT 10). No such evidence has been received.

3. The applicant states that its project is not dependent upon any action by the Corps or the Bureau. If the federal projects are not constructed it will construct a reservoir financed through the sale of bonds (RT 5). The size of the reservoir would depend upon whether it was constructed in cooperation with other agencies (RT 16). If the applicant should construct the project by itself, it will take two full years after authorization of the project by the applicant's directors to complete the design work in preparation for financing (RT 14).

Status of Applicant's Calero Creek Project (Application 23382)

4. Application 23382 covers the enlargement of existing Calero Reservoir on Calero Creek to provide storage for water that now flows to waste over Almaden Dam. The Almaden Dam-Calero Canal links the two reservoirs. Calero Reservoir is well suited for recreational use. Applicant attempted to obtain financial assistance from the State under the Davis-Grunsky Act program (RT 24).

Such assistance was denied when the presence of mercury in the flesh of fish in both reservoirs was discovered (RT 24). The applicant is still considering the project contemplated by Application 23382 for the purpose of storing water from the San Felipe project (RT 25). The project hinges on the federal project and a bond issue for its construction would be included in a bond issue which would provide for the construction of a distribution system for San Felipe water. Bonds would be paid out of water revenues. The applicant estimates that water deliveries from the project would be in mid-1980 when delivery of San Felipe project water would be made to Santa Clara County (RT 26).

Status of Applicant's Los Gatos Creek Project (Application 23384)

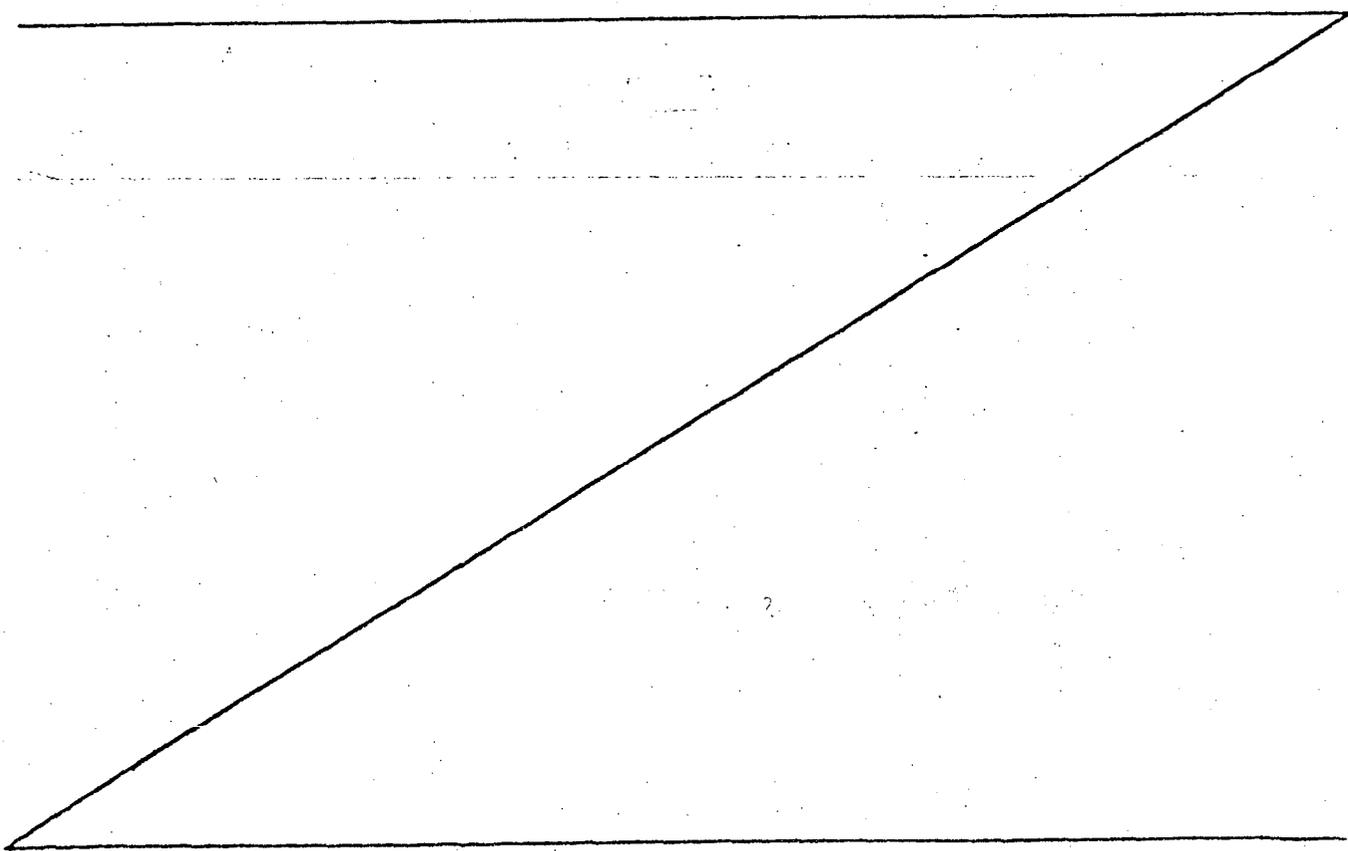
5. Application 23384 covers storage of water from Los Gatos Creek by enlarging Lexington Reservoir. A reconnaissance evaluation of this project found that it has a cost-benefit ratio slightly less than unity (RT 42). However, applicant considers the project worthy of further study and has distributed its report to interested parties for comment (RT 43). Applicant is undecided as to the size of the enlarged reservoir and plans to study the various sizes of reservoirs resulting from different enlargements of Lexington Dam to determine which would have the most favorable cost-benefit ratio (RT 44). The information contained in Application 23384 is preliminary and subject to the result of further study (RT 47). The studies will not be completed until the end of the year 1975 (RT 48). Actual design work will take approximately two years (RT 49).

Applicant's Ability to Proceed with Diligence

6. Due to the projects' dependence on federal action and/or their dependence on the outcome of further studies for their construction and financing the applicant cannot proceed expeditiously with their construction and beneficial use of water. Board Rule 776 (23 Cal. Adm. Code 776) provides:

"776. Reasonable Promptness Required. An application will be denied when it appears after hearing that (a) the applicant does not intend to initiate construction of the works required for the contemplated use of water within a reasonable time and thereafter diligently prosecute the construction and use of water to completion, or (b) the applicant will not be able to proceed within a reasonable time, either because of absence of a feasible plan, lack of the required financial resources, or other cause."

From the foregoing findings the Board concludes that Applications 23381, 23382, and 23384 should be denied.



ORDER

IT IS HEREBY ORDERED that Applications 23381, 23382 and 23384 be denied.

Dated: May 15, 1975

We Concur:

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer
Member

W. W. ADAMS
W. W. Adams, Chairman

W. DON MAUGHAN
W. Don Maughan, Vice Chairman

ROY E. DODSON
Roy E. Dodson, Member